

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

RALPH SCHWARZ,

Plaintiff

V.

U.S. FOODSERVICE, INC.,

Defendant

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) **Docket No. 05-10331-EFH**
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JOINT DISCOVERY PLAN

The Plaintiff, Ralph Schwarz and the Defendant, U.S. Foodservice, Inc., by their attorneys, submit the following joint statement in the above-referenced matter, pursuant to the provisions of Fed. R. Civ. P. 26(f) and Local Rule 16.1 (D).

DATE/PLACE OF CONFERENCE: June 9, 2005 (telephonic)

COUNSEL PRESENT/REPRESENTING:

For Plaintiff: Frank P. Spinella, Jr.

For Defendant: John P. McLafferty

PROPOSED DISCOVERY PLAN:

DISCOVERY NEEDED: Discovery on issues of liability and damages.

MANDATORY DISCLOSURES Fed. R. Civ. P. 26(a)(1)

By July 1, 2005.

COMPLETION OF DISCOVERY: All fact discovery shall be completed on or before close of business *December 15, 2005*.

INTERROGATORIES: A maximum of 25 interrogatories by each party to any other party. Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

REQUESTS FOR ADMISSION: A maximum of 25 requests for admission by each party to any other party. Responses due 45 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

DEPOSITIONS: A maximum of seven depositions by plaintiff(s) and seven by defendant(s). Each deposition limited to a maximum of *eight* hours unless extended by agreement of the parties.

DISCLOSURE OF EXPERTS/ WRITTEN REPORTS/ SUPPLEMENTATIONS:

The Plaintiff shall designate his expert(s), if any, by *November 1, 2005*. The

Defendant shall designate its expert(s), if any, by *December 1, 2005*.

All expert discovery shall be completed by *January 15, 2006*.

Supplementations to expert reports shall be due *December 15, 2005* from Plaintiff and *January 15, 2006* from Defendant.

OTHER ITEMS

JOINDER OF ADDITIONAL PARTIES:

Plaintiff: *By July 15, 2005, or 15 days after any ruling on a Rule 19 Motion*

Defendant: *By August 1, 2005*

THIRD-PARTY ACTIONS: *By August 1, 2005*

AMENDMENT OF PLEADINGS:

Plaintiff: *By September 15, 2005*

Defendant: *By October 1, 2005*

DISPOSITIVE MOTIONS:

For Summary Judgment: All motions for summary judgment are to be filed on or before January 15, 2006, with oppositions thereto filed by February 15, 2006 and reply briefs, if any, filed by March 3, 2006.

SETTLEMENT POSSIBILITIES:

The Plaintiff has presented Defendant with a written settlement demand. The Defendant will be prepared to respond to Plaintiff's proposal at the Scheduling Conference.

JOINT STATEMENT RE ADR:

Mediation may be appropriate but is not requested at this time; the parties shall notify the Court as to an appropriate mediation date should it become warranted.

TRIAL BY MAGISTRATE:

At this time, the parties do not consent to trial before a United States Magistrate Judge.

CERTIFICATION OF CONSULTATION:

The parties shall file at the initial scheduling conference the parties' respective

certifications pursuant to Local Rule 16.1 (D)(3).

OTHER MATTERS: The parties are presently unaware of any other matters which should be brought to the court's attention including other orders that should be entered under Fed. R. Civ. P. 26(c) or 16(b) and (c).

Respectfully submitted,

Ralph Schwarz
By his attorney,

Date: June 10, 2005

/s/ Frank P. Spinella, Jr.
Frank P. Spinella, Jr. BBO #566536
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U.S. Foodservice, Inc.
By its attorney,

Date: June 10, 2005

/s/ John P. McLafferty
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